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A Limited Liability Partnership
2 Including Professional Corporations
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9 Attorneys for Debtor
Imperial Toy LLC

11 UNITED STATES BANKRUPTCY COURT
12 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

13 In re
14 Imperial Toy LLC, a California limited
15 liability company,
16 Debtor.

Case No. 19-52335
Chapter 11

**DEBTOR'S EX PARTE MOTION
TO CONVERT CASE TO
CHAPTER 7**

Judge: Hon. M. Elaine Hammond
Place: United States Bankruptcy Court
280 South First Street
San Jose, California 95113

1 **I.**

2 **INTRODUCTION**

3 The debtor and debtor-in-possession Imperial Toy LLC, (hereafter, the
4 “Debtor”) hereby seeks an order in the form attached as Exhibit A converting the
5 case to chapter 7 on an ex parte basis.

6 The Debtor has closed a sale of substantially all of its assets to Ja-Ru, Inc., it
7 has fulfilled certain post-closing obligations under a Court-approved transition
8 agreement, and the creditors committee appointed in this case has completed its
9 review of pre-petition liens and reached certain settlements with pre-petition secured
10 parties. There is no longer any need for this case to remain in chapter 11, and the
11 Debtor does not possess sufficient funds to confirm a chapter 11 plan. Given that
12 every day in chapter 11 entails an administrative burden and cost, and the Debtor
13 has conferred with the Committee and understands the Committee to support
14 conversion to chapter 7 immediately, the Debtor submits that adequate grounds exist
15 to convert the case to chapter 7 immediately.

16 **II.**

17 **FACTUAL BACKGROUND**

18 This Court approved a sale of substantially all of the Debtor’s assets to Ja-Ru,
19 Inc. or its designee on December 17, 2019. (Docket No. 101). That sale closed on
20 December 18, 2019. (Docket No. 112). The Debtor then fulfilled certain post-
21 closing obligations through a transition services agreement approved by the Court
22 (Docket No. 179), and the Debtor has now fulfilled its obligations under that
23 agreement.

24 The Committee’s review of pre-petition liens in this case has resulted in
25 settlements approved by this Court with the pre-petition factor and the pre-petition
26 ABL agent. The Debtor understands that the Committee does not expect any further
27 settlements to be reached (Docket Nos. 192, 193), and will hand over all remaining
28 lien issues to the chapter 7 trustee once appointed.

1 The Debtor does not possess sufficient funds to confirm a chapter 11 plan and
2 believes that conversion to chapter 7 is in the best interests of the estate.

3 **III.**

4 **ARGUMENT**

5 Section 1112(a) of the Bankruptcy Code gives the Debtor the right to convert
6 a chapter 11 case to chapter 7 unless one of three exceptions apply: (i) the Debtor is
7 not a debtor in possession; (ii) the case started as an involuntary; and/or (iii) the case
8 was converted from another chapter to chapter 11 on the request of a party other
9 than the Debtor. 11 U.S.C. § 1112(a); Senate Report No. 95-989 (“[Section
10 1112(a)] gives the debtor an absolute right to convert a voluntarily commenced
11 chapter 11 case in which the debtor remains in possession to a liquidation case.”); In
12 re Texas Extrusion Corp., 844 F.2d 1142, 1161 (5th Cir. 1988) (“A debtor has the
13 absolute right to convert his or her Chapter 11 case to a Chapter 7 case...”).

14 None of the exceptions in Section 1112(a) apply here – the Debtor is in
15 possession, the case commenced as a voluntary chapter 11, and the case was not
16 converted to chapter 11 from another chapter.

17 Further, good cause exists to convert to chapter 7. Remaining in chapter 11
18 after this point in time will simply cause the estate to incur the additional
19 administrative burdens associated with chapter 11 with no corresponding benefit.
20 The main purpose of the chapter 11 – liquidating the Debtor’s assets in a sale
21 process – has been achieved. And, the Committee has conducted a lien review and
22 reached all the settlements with the pre-petition secured parties that it expects to
23 reach. The best thing for the estate now would be to convert to chapter 7, handing
24 the chapter 7 trustee any remaining claims and defenses, as well as the net cash
25 available to the estate after payment of the administrative expenses of the chapter 11
26 through the carve-outs funded under the Court’s post-petition financing orders
27 (Docket Nos. 29 and 110) and the post-closing cash collateral order (Docket No.
28 152).

1 Because every day in chapter 11 entails administrative costs, and the Debtor
2 understands that the Committee supports conversion immediately, the Debtor
3 submits that there is sufficient basis on which to convert this case to chapter 7 ex
4 parte.

5 **IV.**

6 **CONCLUSION**

7 For the reasons stated above, the Debtor requests that the Court convert
8 the case to chapter 7 by entering an order in the form attached as Exhibit A.

9 Dated: February 20, 2020

10 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
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12 By /s/ Ori Katz

13 ORI KATZ

14 Attorneys for Debtor,
15 IMPERIAL TOY LLC
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EXHIBIT A

SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP

A Limited Liability Partnership
Including Professional Corporations

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Imperial Toy LLC

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

In re

Imperial Toy LLC, a California limited
liability company,

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Case No. 19-52335

Chapter 11

**ORDER CONVERTING CASE TO
CHAPTER 7**

Judge: Hon. M. Elaine Hammond

Place: United States Bankruptcy Court

280 South First Street

San Jose, California 95113

1 Upon the Debtor's Ex Parte Motion to Convert Case to Chapter 7 (the
2 "Motion") filed by the above-captioned debtor, Imperial Toy LLC ("Debtor") on
3 February 20, 2020, and good cause appearing,

4 IT IS HEREBY ORDERED THAT:

5 1. The Motion is GRANTED.

6 2. The above case is hereby converted to a case under chapter 7 of title 11
7 of the United States Code.

8 3. Notwithstanding the conversion of the case to chapter 7:

9 (a) Amounts that were funded pursuant to the interim and final
10 debtor-in-possession financing orders (Docket Nos. 29 and 110) (the "DIP Orders")
11 pursuant to the post-closing cash collateral order (Docket No. 152) (the "Cash
12 Collateral Order") and pursuant to the order approving the transition services
13 agreement (Docket No. 179) (the "TSA Order") shall be used by the chapter 7
14 trustee for the purposes stated and approved in those orders and the accompanying
15 motions, including but not limited to amounts funded for professional fees and post-
16 petition, pre-closing expenses;

17 (b) The outstanding checks issued by the Debtor to pay expenses
18 contemplated under the DIP Orders, the Cash Collateral Order, and the TSA Order
19 shall be honored in the ordinary course post-conversion; and

20 (c) Amounts that were funded as carve-outs for estate professionals
21 under the DIP Orders and Cash Collateral Order and are currently being held in the
22 trust accounts of counsel to the Debtor and counsel to the Committee shall remain in
23 said trust accounts until the Court rules on final fee applications in this chapter 11
24 case, and shall be applied to any fees approved pursuant to such applications.

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26 *****END OF ORDER*****
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Court Service List

ECF Parties by ECF